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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,475	12/17/2003	Robert Darren Brumfield		1474

34917 7590 12/04/2006  
ROBERT DARREN BRUMFIELD  
C/O RR1 BOX 530  
LE SAGE, WV 25537

EXAMINER
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NGUYEN, JIMMY H

ART UNIT	PAPER NUMBER
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2629

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/707,475		BRUMFIELD, ROBERT DARREN	
	<b>Examiner</b>		<b>Art Unit</b>	
	Jimmy H. Nguyen		2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### DETAILED ACTION

1. This Office Action is made in response to applicant's papers filed on 12/17/2003. Claims 1-3 are currently pending in the application. An action follows below:

#### *Oath/Declaration*

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.
3. The oath or declaration is defective because: the S-signature must be inserted between forward slash marks. See 37 CFR § 1.4(d)(2).

#### *Specification*

4. The disclosure is objected to because of the following informalities: the title of the invention is too long. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, **preferably from two to seven words** may not contain more than 500 characters. See 37 CFR 1.72(a) and MPEP § 606.

Appropriate correction is required.

#### *Drawings*

5. The drawings are objected to because the figure numbers "FIG. 1/2" and "FIG. 2/2" must be changed to -- FIG. 1 -- and -- FIG. 2 --, respectively, in order to match the figure numbers in the specification, see the specification, paragraphs [0008] and [0009].

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

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sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

9. Regarding claim 2, this claim, which simultaneously claims both statutory classes (an apparatus and a manufacture), is indefinite under 112/2d (In Ex Parte Lyell 17 USPQ2d 1548

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(Bd. PA&I 1990)). Further, it is not clear that the applicant claim the manufacture of a wireless communication device, a combination writing instrument and antenna, or both. Accordingly, this claim is found to be ambiguous under 35 USC 112, second paragraph.

*Notice to Applicant*

10. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. **Note the format of the claims in the patent(s) cited.**

*Claim Rejections - 35 USC § 102*

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nagaoka (US 5,564,850).

As to claim 1, Nagaoka discloses a writing instrument (as shown in Fig. 1) comprising a stylus (an input member 2, see col. 2, lines 31-35) on one end and an ink pen (a ball-point pen 4, see Fig. 1, col. 2, lines 36-42) at the other end. Accordingly, all the claimed limitations are read in the Nagaoka reference.

13. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Adachi (US 5,739,793).

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As to claims 2 and 3, Adachi discloses a combination writing instrument and antenna (an antenna with touch pen 3, col. 3, line 64, Fig. 1B) attaching to a wireless communication device (a mobile communication information terminal apparatus 1, see Fig. 1B, col. 3, line 67 through col. 4, line 5) or stored in the wireless communication device (see Fig. 8C, col. 9, lines 27-36). Accordingly, Adachi discloses all the claimed limitations including the manufacture thereof.

### *Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Townsend (US 1,500,426) also discloses a similar writing instrument (see Fig. 1) comprising a stylus (12) on one end and a pencil (19) at the other end. Wood et al. (US 6,608,618 B2) also discloses a similar combination writing instrument (a touch pen) and antenna (as shown in Fig. 8a) stored in a wireless communication device (see Fig. 7).

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy H. Nguyen whose telephone number is 571-272-7675. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m..

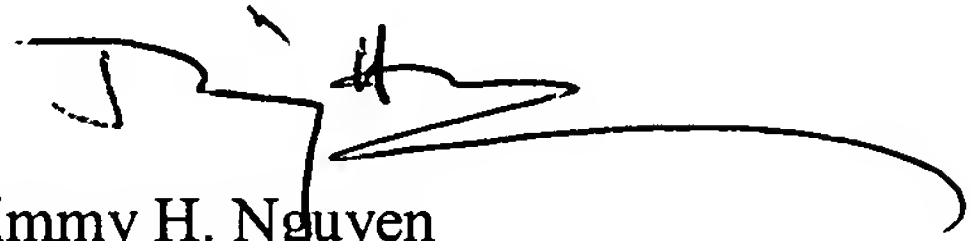
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached at 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHN  
November 30, 2006



Jimmy H. Nguyen  
Primary Examiner  
Technology Division: 2629